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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,180	04/16/2004	Kiyoshi Mizuki	723-1504	8298
23117 7590 10/28/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,180

Applicant(s)

MIZUKI ET AL.

Examiner

FRANK M. LEIVA

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges amendments to claims 1-10 in applicant's submission filed 14 July 2008, and receipt of certified copy of Foreign Priority Application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. **Claims 1-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takahashi et al (US 6,354,944 B1).**
4. **Regarding claims 1 and 6;** Takahashi discloses:

An image processing apparatus that displays on a display an image in which an operating object appearing in a virtual three-dimensional space is seen from a predetermined viewpoint location, (col. 2:28-32).

An -operation controller operated by a player, (col. 2:43-47, 5:34-35).

A selecting programmed logic circuitry for selecting the operating object appearing in said virtual three-dimensional space, out of a plurality of the operating objects different in size, based on an operation of said operation controller, (col. 13:51-55 and 15:39-54), whereas the viewpoint is dependent to the size of the player character, inherently includes a plurality of sizes and thus a plurality of characters for

the player to choose from, and wherein the picture view of the surroundings are dependent on the manipulation of the character.

A viewpoint-location setting programmed logic circuitry for setting the viewpoint location in correspondence with said operating object selected by said selecting mechanism, (13:51-55).

An image displaying programmed logic circuitry for displaying a three-dimensional image including said operating object based on said viewpoint location set by said viewpoint location-setting programmed logic circuitry, (col. 15:9-12).

Wherein said viewpoint-location setting programmed logic circuitry sets the viewpoint-locations in such a manner so that each of operating objects selected by said selecting programmed logic circuitry is displayed to have approximately the same size, (col. 2:18-22 and 3:54-62)], disclosed in the invention of Takahashi is the fact the invention intention is to generate the optimum view from the avatar angle depending on the size of the character selected for viewing. By adjusting the distance to the back of the character to be larger when the character is of large size and getting closer when the character is smaller, will produce the effect of maintaining the character in view of the same size in the viewing screen and maintaining the optimum view. Not disclosed but understood is that the optimum view will generate for every character size the same size (or optimum size), on the window. Simply stated, at least one possibility is that Takahashi's viewpoint changes such that all of the objects displayed are approximately the same size--when objects are located near each other at the location displayed.

wherein by moving the camera viewpoint away for a large character and moving it closer for a small character will inherently maintain the same size or optimal size of the character, at least approximately.

5. Regarding claims 2 and 7; Takahashi discloses viewpoint-location-data storing locations for storing each viewpoint location data correlated with each of said plurality of the operating objects; wherein said viewpoint-location setting programmed logic circuitry reads out from said viewpoint-location-data storing locations said viewpoint location data corresponding to said operating object selected by said selecting programmed

logic circuitry to set said viewpoint location, (col. 8:36-39), wherein viewpoint data is previously determined and store to be accessed during the running of the program.

6. Regarding claims 3 and 8; Takahashi discloses wherein each of said viewpoint location data is set in such a manner as to be displayed as the operating object approximately the same in size even if any one of the operating objects is selected by said selecting programmed logic circuitry, (col. 2:18-21 and 8:8-12), wherein the program selects the optimum viewpoint according to the player character size, it would be necessary for the system to show all characters approximately the same size as to give all players the same viewing advantage in the playing field, where in a game of limited screen display, a larger character viewed from an avatar point, would cover the screen and make it impossible for the player to view his opponent.

7. Regarding claims 4 and 9; Takahashi discloses wherein said viewpoint location data includes distance data from a point-of-regard (point B), said viewpoint-location setting programmed logic circuitry reads out said distance data corresponding to said operating object selected by said selecting programmed logic circuitry to set said viewpoint location, (Fig. 6, B1-B3, col. 8:25-39), reference point B and distance D.

8. Regarding claims 5 and 10; Takahashi discloses wherein said viewpoint location data includes angle data or height data from the point-of-regard, and said viewpoint-location setting programmed logic circuitry reads out said angle data or said height data corresponding to said operating object selected by said selecting programmed logic circuitry to set said viewpoint location, (fig. 4), wherein angle "Alpha" and height "yB" set viewpoint location to be $C(xc, yc, zc)$.

9. Regarding claims 1-10; It is understood by the examiner according to the applicant's specification that there is no support for the fact that the size of the different character is purposely rendered to approximately the same size, and as such is only a by-product of the implemented viewpoint calculations which are based on the character

size in the same fashion of Takahashi. The examiner states this to be inherent in Takahashi, but at the very least it is an obvious product of backing up the camera when the character is larger and getting closer when the character is smaller.

10. Examiner's Note: Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Response to Arguments

11. Applicant's arguments filed 14 July 2008 have been fully considered but they are not persuasive. Two arguments found as follow;

12. To the arguments on page 8 of applicant's remarks, wherein the applicant points to the amended limitations to the claims, are moot in view of the rejections stated above. "Claim 1 now recites", is directed to the amendment and is moot and covered above.

13. To the argument on page 10 of applicant's remarks, *"Moreover, Takahashi is silent regarding the variation of the angle α (alpha) even though the distance dHAB may change as the height of the operating object changes (see Fig. 4), there is no teaching that the angle changes in such a way that it becomes smaller as the height becomes smaller"*, the examiner points to col. 8 lines 50-54, wherein the value of dHAB is given and the value of alpha depends on the relationship $dHAB = dAB \cos \alpha$. Thus alpha not only depends on the horizontal distance to the object but also the inclination of the landscape and thus is constantly being calculated as the player character moves

14. To the argument directed to the claim 3 rejection on page 10 of applicant remarks, *"Takahashi is completely silent as to showing all game characters of different*

15. *sizes as having approximately the same size*", the examiner points again to col. 2 lines 18-22 where the intent of Takahashi is to maintain an optimal view, and col. 3 lines 54-62 wherein Takahashi recognizes the need to adjust the distance of the camera to the back of the character according to the size of the character, and even discloses to have small, medium and large sizes of characters.

16. It is understood by this examiner that Takahashi's invention is complex and that reading a single portion of the invention would limit it in the entirety. Takahashi discloses not only optimizing the view according to the character size, but by the terrain, speed of travel, amount of enemies in close proximity, etc.

17. Examiner's note: It is the the examiners view that Takahashi's invention uses the same mathematical angles and views as the present invention, and the lack of disclosure of the fact that the images of different characcter sizes are displayed of aproximately the same size is simply the discovery of a new property of an old invention. "[T]he discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new to the discoverer." *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999). Thus the claiming of a new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable. *In re Best*, 562 F.2d 1252, 1254, 195 USPQ 430, 433 (CCPA 1977).

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML 10/16/2008

/Scott E. Jones/

Primary Examiner, Art Unit 3714